

RIDER B

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS. As used in this Agreement, unless the context otherwise indicates, the following terms shall have the following meanings:

- a. 24 CFR Part 85. 24 CFR Part 85 means Office of Management and Budget circular Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- b. "Project". Project means the community development program and activities, including administration thereof, with respect to which grant funds are provided under this Agreement.

2. GRANTOR'S REPRESENTATIVE. The Agreement Administrator, referenced in Rider A shall be the Grantor's representative during the period of this Agreement. S/he has the authority to stop work on the Project if necessary to insure its proper execution.

3. SUBLETTING, ASSIGNMENT OR TRANSFER. The Grantee shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title, or interest therein, without written request to and written consent of the Agreement Administrator. No subcontract or transfer of agreement shall in any case release the Grantee from liability under this Agreement.

4. PROHIBITION OF INTEREST

- a. No individual employed by the Department of Economic & Community Development at the time of this Agreement shall receive any share or part of this Agreement or any benefit that may arise directly or indirectly there from.
- b. No State or Local elected official, director, officer, agent, or employee of the Grantee shall, directly or indirectly, have any financial interest in any property to be included in, or any contract for property, materials, equipment, or services to be furnished or used in connection with the construction or operation of the Project. Notwithstanding the foregoing, whenever the Grantor determines that it is in the best interest of the Grantee to contract with any interested director, officer, agent, or employee, and that person (i) has previously fully disclosed the nature of his or her interest to the Grantor, (ii) has refrained from deliberation and voting on the matter, and (iii) has not been counted towards a quorum at any meeting at which the contract was deliberated; and the requirements of 24 CFR part 570 have been met, then, and only then, the Grantor may approve that contract. Any request for the Grantor's approval shall be accompanied by (i) full disclosure in writing of the pertinent facts and circumstances surrounding the contract, and (ii) certified copies of the Grantee's corporate proceedings showing full compliance with the provisions of this section.

5. WARRANTY. The Grantee warrants that it has not employed any company or person, other than a bona fide employee working solely for the Grantee, to solicit or secure this Agreement, and that it has not paid, or agreed to pay any company or person, other than a bona fide employee working solely for the Grantee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Grantor shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the grant funds or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

6. STATE HELD HARMLESS. The Grantee agrees to indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee in the performance of this Agreement and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data. In relation to this Agreement, the State and the Grantor shall have no obligation for reimbursement to the Federal government resulting from audit exceptions for any other reason, and all such obligations shall be assumed by the Grantee.

7. PROJECT WORK. In connection with all phases of the Project, including all work to be performed in the development thereof, the Grantee agrees as follows:

- a. The Grantee agrees to execute and complete the Project in accordance with the terms of this Agreement, including all Riders and attachments hereto. Subsequent to this Agreement, any change in the Project design or arrangement must have the prior written approval of the Grantor.
- b. The Grantee shall complete the project in accordance with all applicable Federal regulations and statutes including 42 USC ch. 69 and 24 CFR Part 570.
- c. The Grantee shall provide the Grantor reasonable notice of all pre-construction conferences and afford the Grantor the option of participating in such conferences.

8. GRANT FUNDS

- a. Grant funds shall be used only for the purposes and activities specified in Rider A of this Agreement. Grant funds shall be used and administered in a manner consistent with the Final Statement of the State of Maine Community

Development Block Grant Program, and in accordance with applicable Federal and State laws and regulations and State of Maine Community Development Block Grant Program Administrator's Guide and accompanying handbooks.

- b. Grant funds may not, without advance written approval by the Grantor, be obligated prior to the effective date or subsequent to the completion date of this contract. Obligations outstanding as of the contract end date shall be liquidated within 90 days. Such obligations must be related to goods or services provided during the grant period, except, reasonable costs associated solely with grant close-out, e.g. audits, final reports, not obligated by the contract end date may be incurred within 90 days after the contract end date.

9. PROGRAM INCOME. The Grantee must administer all program income generated from activities funded with this grant as outlined in an approved Program Income Plan in accordance with the State of Maine OCD Policy Letter #2.

10. GRANTEE FINANCIAL MANAGEMENT SYSTEM

- a. Except where inconsistent with Federal requirements and State of Maine CDBG Program Administrator's Guide, local standard procedures and practices will be adhered to with regard to accounting for funds.
- b. The Grantee must establish fiscal control and fund accounting procedures, which assure proper disbursement of, and accounting for, grant funds and any required nonfederal matching expenditures. This responsibility applies to funds disbursed to and by subgrantees and contractors as well as to funds disbursed in direct operations of the Grantee. The Grantee shall maintain a financial management system which complies with 24 CFR Part 85, 85.20, "Standards for Financial Management Systems" or such other equivalent system as the Grantor may require. Requests for payment shall be made according to Grantor's invoicing procedure.

11. BONDING AND INSURANCE

- a. Local units of governments shall follow their own customary requirements relating to bid guarantees, provided they comply with applicable laws.
- b. The Grantee covenants that each of its officials or employees having custody of the project funds during acquisition, construction, development, and operation shall be bonded at all times for the amount normally carried by the municipality.
- c. When the Grantee awards a contract or subcontract exceeding \$100,000 for the construction, alteration or repair of any public building or other public

improvement or public work, including highways, the Grantee shall require each contractor and subcontractor to carry payment and performance bonds for 100% of the value of the contract. (14 M.R.S.A. 871).

12. RECORDS

- a. The Grantee agrees to maintain such records and provide such periodic reports as the Grantor may require.
- b. The Grantee, its contractors and subcontractors shall establish, maintain, and preserve property management, project performance, financial management, reporting documents and systems, and such other books, records, and data as the Grantor may require. Such records shall be retained for a period of three years following completion of the project and receipt of final payment by the Grantee, or until an audit is completed and all questions arising there from are resolved, whichever is later.

13. PROCUREMENT. The Grantee's Procurement procedures will be consistent with Federal, State, and Local procurement practices and regulations, provided that procurements made with grant funds adhere to the standards set forth in the State of Maine's CDBG Program Administrator's Guide.

14. AUDIT

- a. The Grantee shall make arrangements for an audit of its grant accounts and records. The audit will be conducted according to the standards established in the State of Maine's CDBG Financial Handbook, OMB Circular A-133, and the Single Audit Act Amendments of 1996.
- b. The Grantee agrees to repay any funds received for costs determined to be non-allowable by an audit of the Project accounts. The Grantor shall determine what costs are non-allowable according to the terms of this Agreement and applicable laws and regulations.
- c. The Grantee agrees that the Grantor, the Comptroller General of the United State, or his/her duly authorized representatives and the Secretary of Housing and Urban Development or his/her duly authorized representatives shall, until the expiration of three (3) years after completion of the project for which this grant was made or used, have access to and the right to examine any books, documents, papers, payrolls and records of the Grantee involving transactions related to this grant or the project. The Grantee agrees to make such materials available for inspection at its offices at all reasonable times, and the Grantee shall furnish copies thereof if requested. The Grantee shall include the substance of this paragraph in all subgrants, contracts, and subcontracts payable or reimbursable from Grant funds in whole or in part.

15. STATUTORY REQUIREMENTS. The Grantee shall comply, and require each contractor to comply, with all applicable Federal, State, and Municipal laws, standards, orders, or regulations including without limitation:

a. Nondiscrimination.

1. Title VI of the Civil Rights Act of 1964, as amended, (42 USC 2000d et seq) and the requirements imposed by Regulation (15 CFR Part 8, and 24 CFR Part 1). No person in the United States shall, on the grounds of race, color, religion, sex, handicap, familial status, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives federal financial assistance. The Grantee will immediately take any measures necessary to effectuate this agreement.
2. Rehabilitation Act of 1973, (29 USC 794, 24 CFR Part 8, and Executive order 11914 Section 504). No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.
3. Equal Employment Opportunity, Executive order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). The Grantee shall require language prescribed in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, to be inserted in full in any construction contract for more than \$10,000 or modification thereof, which is paid for in whole or in part with assistance provided under this agreement.
4. Certification of Non-segregated Facilities as required by the May 19, 1967, Order (32 F.R. 7439) on Elimination of Segregated Facilities, by the Secretary of Labor. Prior to the award of any construction contract or subcontract exceeding \$10,000, the Grantee shall require the prospective prime contractor and each subcontractor to submit the following certification:

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he/she does not maintain or provide his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The bidder, offeror, applicant, or

subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, handicap, familial status, or national origin, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she have obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications form proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON SEGREGATED FACILITIES

A Certification of Non segregated Facilities, as required by the may 9, 1967 Order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 (which is not exempt from the provisions of the Equal Opportunity clause). The Certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

5. The Age Discrimination Act of 1975 (42 USC §6101 et seq). No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
6. Section 109 of the Housing and Community Development Act of 1974 (42 USC §5309). No person in the United States shall on the grounds of race, color, religion, sex, handicap, familial status, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Title I of the Housing and Community Development Act of 1974 funds.

7. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u and 24 CFR Part 135). In connection with planning and implementation of any project assisted with CDBG funds and to the greatest extent feasible, opportunities for training and employment should be given to lower-income persons residing within the unit of local government in which the project is located. Contracts for work in connection with the project should be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same unit of local government in which the project is located.
8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq. and 24 CFR Part 100); popularly known as the Fair Housing Act, and Executive Order 11063 as amended by Executive Order 12259. It is illegal to discriminate against, and in any way make unavailable or deny a dwelling to, any person because of race, color, religion, sex, handicap, familial status, or national origin in the following activities: sale or rental of housing or residential lots; advertising the sale or rental of housing; financing of housing; provision of real estate brokerage services; and the appraisal of housing. Recipients of federal funds required to administer programs and activities relating to housing and urban development in a manner that affirmatively furthers fair housing.

b. Labor Standards

1. Davis-Bacon Act as amended (40 U.S.C. 276a – 276a-7 and 29 CFR Part 5). All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.
2. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 – 334). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with, and subject to, the provision of the Contract Work Hours and Safety Standards Act. Contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.
3. Copeland Anti-Kickback Act (40 U.S.C. §276c and 29 CFR Part 3). All workers must be paid at least once a week, and without any deductions or rebates except those permissible.

- c. Title IV of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. §4831 and 24 CFR Part 35).

LEAD-BASED PAINT HAZARDS. The use of any paint containing more than 0.5% lead by weight or for paint manufactured after June 22, 1977 containing more than 0.6% lead by weight, is prohibited from use on any interior or exterior surface in any building being rehabilitated with CDBG funds. Any evidence of a health hazard (cracking, scaling, peeling and loose lead-based paint) must be treated to prevent ingestion of the contaminated Material. Any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods.

- d. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, (42 U.S.C. ch. 61 and 49 CFR Part 24) and as provided by 1. M.R.S.A. ch. 23 requires that activities consisting of acquisition of real property, or acquisition made necessary by CDBG funded activities and/or displacement of families, individuals, businesses, nonprofit organization or firms must provide appropriate compensation.
- e. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq); The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq); and Executive Order No. 11593 (36 FR 8921). The chief executive officer of the Grantee consents to assume the status of responsible Federal official under the National Environmental Policy Act 1969 (NEPA) HUD review procedures, and other applicable provisions of Federal law as specified in 24 CFR 58. The chief executive officer is authorized and consents to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as an agent of the Grantee. The release of funds for activities in this Agreement is subject to the completion of the environmental review process.
- f. The Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), as amended. The Grantee will fulfill any flood insurance requirements under this Act and any regulations issued there under which may be issued by NOAA.
- g. The Architectural Barriers Act (42 U.S.C. 4151), as amended, and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
- h. The Clean Air Act, as amended, (42 U.S.C. 1857 et seq), the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq) and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. In no event shall any amount of assistance provided under this Agreement be utilized with respect to a

facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.

- i. Minority Business Enterprises referenced in Executive Order #11625, (24 CFR 85.36 Procurement). Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
- j. CDBG Certification. Grantee shall provide any certification required under Sections 104(b), 106(d)(5) or under any other provision of Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. ch. 69), including Amendments made by the Housing and Urban Rural Recovery Act of 1983, and shall comply with the terms of such certifications.
- k. Restrictions on Lobbying: (Section 319 of Public Law 101-121 and 24 CFR Part 87). The Grantee shall comply with Federal requirements regarding government wide restrictions on lobbying.
- l. Protection of Individuals Engaged in Nonviolent Civil Rights Demonstration. The Housing and Community Development Act of 1974, as amended (42 U.S.C. §5304(i)) requires that each recipient of CDBG Title I funds to adopt and enforce these policies:
 - 1) prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
 - 2) enforce applicable State and Local laws against physically barring entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction.

16. The Grantee warrants that it will follow all procedures as outlined in the State of Maine Community Development Block Grant Program Administrator's Guide, and other subsequent handbooks issued by the Grantor.

17. AMENDMENTS. Amendments to this Agreement will be considered only for the purpose of altering the amount, extending the Agreement end date, or adding or deleting and activity. Amendments must be submitted as outlined in the CDBG Program Administrator's Guide. Requests for amendments must be based on problems encountered in administering the CDBG Program according to the original design and schedule. Amendments may be requested as the need arises during the course of grant administration and will be evaluated to assure that:

- a. the level of benefit will be maintained or increased
- b. all new activities are eligible
- c. the nature of the project as originally submitted has not changes

- d. public hearings (with appropriate notice) are held prior to submission if the project goals are substantially changed
- e. the appropriate municipal officials have approved the amendment

18. MODIFICATIONS. Requests for alterations to grant activities, budget line items of less than 10 percent, or schedules which are non-substantive in nature, but necessary to bring the project into conformity with grant requirements, shall be submitted in duplicate to the Project Development Specialist for approval.

19. SUSPENSION OR TERMINATION

- a. Suspension. The Grantor reserves the right to suspend the grant, withhold further payments, or prohibit the Grantee from incurring additional obligations, pending corrective action by the Grantee.
- b. Termination. The Grantor reserves the right to terminate this Agreement in whole, or in part, at any time upon a 30 day written notice to the Grantee that it has failed to comply with the conditions of the grant. Any such termination shall be effected by the delivery to the Grantee of a notice of termination specifying the extent to which the agreement is terminated and the date on which such termination becomes effective.
- c. Appeals. The Grantee may appeal any determination by the Project Development Specialist to the Director of the Office of Tourism and Community Development according to procedures set forth by the Grantor.

20. TERMINATION BY MUTUAL AGREEMENT. This Agreement may be terminated, whole or in part, prior to the completion of the contracted work when both parties agree that continuation is not feasible or would not produce beneficial results. The parties must agree on the termination conditions, including the effective date and the activities to be terminated. The Grantee shall not incur new obligations for the terminated activities after the effective date, and shall cancel as many outstanding obligations as possible.

21. AVAILABILITY OF FUNDS CLAUSE. The funds granted in this Agreement are contingent upon those funds being available to the State by the U.S. Department of Housing and Urban Development. The State of Maine shall not be obligated to reimburse the grantee for costs incurred beyond the total amount obligated to the State of Maine by the U.S. Department of Housing and Urban Development.

22. ACQUISITION, CHANGE OF USE AND DISPOSITION OF REAL PROPERTY: Subject to the obligations and conditions set forth here and in 24 CFR 570.490 and 24 CFR 85.31, title to real property acquired in whole or in part using CDBG funds will vest upon acquisition in the Grantee. The Grantee shall ensure, at the time of accepting title, inclusion of a deed restriction indicating the Grantee must notify the OCD of any intent

to change the use of, or the disposition of any real property, acquired in whole or in part with CDBG funds under this grant. The Grantee must not proceed with any action toward change of use or disposition of the real property prior to receiving instructions and written approval from the OCD.